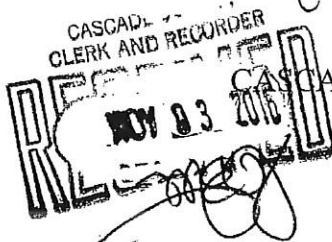




Return to Zoning Board of Adjustments



RULES OF PROCEDURE
CASCADE COUNTY ZONING BOARD OF ADJUSTMENT
CASCADE COUNTY, MONTANA

SECTION I: GENERAL GOVERNING RULES

The Zoning Board of Adjustment ("ZBOA" or "Board") shall be governed by the provisions of Title 76, Chapter 2, Montana Code Annotated (MCA) and the Zoning Regulations of Cascade County, Montana. Every Board member will thoroughly familiarize themselves with these provisions. In case of uncertainty or difficulty, the County Attorney should be consulted for clarification. In the event the Rules of Procedure are in conflict with the Montana Codes Annotated and/or the Cascade County Zoning Regulations, the Montana Codes Annotated shall take precedence, followed by the Cascade County Zoning Regulations.

SECTION II: OFFICERS AND DUTIES

A. Chairman: The Chairman shall be selected by majority vote of the Board at the first meeting after January 1. The Chairman shall serve for a period of one year and may be elected to consecutive terms not to exceed a total of two (2) years. A Vice Chairman shall also be elected, in the same manner and for the same term, to serve in the absence of the Chairman. The Chairman shall decide on all points of order and procedure, subject to the provisions of these rules, unless directed otherwise by a majority of the Board in session at that time. The Chairman shall appoint any committees found necessary to investigate any matters properly before the Board. A minimum of two (2) members of the Board shall serve such a committee.

B. Secretary: The Secretary of the Board shall be the Cascade County Zoning Administrator or the Zoning Administrator's appointee. The Secretary shall conduct all correspondence of the Board and shall generally supervise the clerical work of the Board. The Secretary shall keep a minute book showing the record of all important facts pertaining to each meeting, which shall include, but not be limited to, the following: Names and addresses of all persons appearing before the Board, all exhibits presented to the Board, a copy of each resolution acted upon by the Board, the vote of each member, members absent or failing to vote. The Secretary shall cause any other details to be included within the minute book as may be ordered by the Board or its Chairman. Such minute book shall be filed in the office of the Board, which shall be the Cascade County Planning Division office, and shall be a public record.

SECTION III: MEETINGS

A. Time of Meetings: Regular meetings shall be held when there are matters to come before the Board. The Secretary will notify Board members when an application or request has been received which would cause a meeting to be scheduled. The Chairman may call special meetings when necessary. All meetings will be held in Cascade County.

B. Conduct of the Meetings: All meetings shall be open to the public. A quorum shall consist of three (3) members of the Board and the concurring vote of at least 3 members of the Board shall be required for the Board to approve any action it takes. The Chairman, or in their absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses. The Board may impose reasonable time limits on any applicants, witnesses, or other persons providing testimony or

evidence. The order of business at regular meetings shall be (1) roll call; (2) reading and approval of minutes of preceding meeting; (3) reports of committees; (4) hearings of appeals and applications; (5) old business; (6) new business; (7) Board matters (8) Public Comment (9) adjournment. No Board member shall sit in hearing nor vote in passing upon any case in which they are personally or financially interested.

SECTION IV: APPEALS OF DECISIONS OF THE ZONING ADMINISTRATOR AND APPLICATIONS TO THE ZONING BOARD OF ADJUSTMENT

- A. Appellants: An appeal may be taken by any aggrieved person or by any officer, department, board or bureau of Cascade County and within the jurisdictional limits of the Cascade County Zoning District of a decision of the Zoning Administrator. Such an appeal shall be filed within thirty (30) calendar days (legal holidays excepted) after the date of the decision of the Zoning Administrator, by filing an appeal with the Board, specifying the grounds thereof as outlined in the Cascade County Zoning Regulations.
- B. Manner of Filing Appeals: The appeal shall be filed as outlined in the Cascade County Zoning Regulations. At the time of filing the appeal, the appellant, applicant and adjacent property owners to the property the appeal is regarding will be furnished a certified letter with the date, place, time and nature of the hearing. A public hearing notice must be published at least fifteen (15) days prior to the hearing and the notice shall include the time and place of the hearing and must be published in a newspaper of general circulation in the county.
- C. Applications: In the cases of applications to the Board for a Variance, an Unclassified Use Permit or a Special Use Permit as specified in the Zoning Regulations, such application shall be made upon forms provided by the Board which are kept by the Zoning Administrator. The procedure shall be in accordance with the Cascade County Zoning Regulations.
- D. The Calendar: The Zoning Administrator shall ensure that each appeal or application shall be filed, in the proper form and with the required information, and shall then direct the matter be placed on the Board's calendar for hearing. The numbering of each appeal and application shall be in an ordered format as determined by the Zoning Administrator. Upon calendaring the appeal or application, the appellant or applicant, as the case may be, shall be notified to appear on the date calendared for hearing as outlined in the Cascade County Zoning Regulations.

SECTION V: HEARINGS

- A. Notice of Hearings: The Secretary of the Board shall give public notice of the hearing as outlined in the Cascade County Zoning Regulations. The Secretary shall also mail notices of the hearing to the parties as outlined in the Cascade County Zoning Regulations.
- B. Form of Notice: The notice shall be in accordance with the requirements of the Cascade County Zoning Regulations.
- C. Conduct of the Appeal Hearing: Any person may appear in person or by agent or attorney at the hearing. The order of business for the hearing shall be: (1) statement of the case by the Chairman; (2) the argument in favor of the appeal; (3) the argument in opposition to the appeal; (4) rebuttal by both sides. The first person to be heard on the affirmative side shall be the applicant or his agent. The first person to be heard on the negative side shall be the Zoning Administrator or their appointee. Witnesses may be

called and factual evidence may be submitted. All witnesses shall be sworn or they shall affirm that their testimony is true. (5) Any member of the public who is a proponent. (6) Any member of the public who is an opponent. (7) Any member of the public who is not a proponent or opponent but wants to provide informational testimony. (8) Board discussion which may include the right to ask questions of any person(s) in attendance or may be called upon to testify. (9) Board vote to approve with conditions, deny, or table the motion until the next appropriate meeting time.

- D. Conduct of the Hearing regarding an Application: Any person may appear in person or by agent or attorney at an application hearing. The order of business for the hearing shall be: (1) presentation of the staff report by the Zoning Administrator or their appointee. (2) Questions of the Zoning Administrator or staff by the board. (3) Presentation by the applicant or their appointee. (4) Questions of the Applicant or their appointee by the board. (5) Any member of the public who is a proponent. (6) Any member of the public who is an opponent. (7) Any member of the public who is not a proponent or opponent but wants to provide informational testimony. (8) Board discussion which may include the right to ask questions of any person(s) in attendance or may be called upon to testify. (9) Board vote to approve with conditions, deny, or table the motion until the next appropriate meeting time.

SECTION VI: DECISIONS

A. Time of Decisions: Decisions of the Board shall be made not later than thirty-one (31) days from the date of the hearing. Every attempt shall be made to reduce this period to a minimum.

B. Vote: The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance.

C. Form of Decisions: The final decision of the Board shall be made by a formal written letter to the applicant from the Zoning Administrator. For a decision regarding an application, the letter shall state the decision and any conditions attached by the Zoning Board of Adjustment. Any decision by the Zoning Board of Adjustment including but not limited to an application, an appeal, or the like, shall be recorded in the minutes and show the reasons for the determination and may reverse or affirm, wholly or in part, or may modify the order or determination appealed from. Such decision shall also state in detail, in the case of variances, any exceptional difficulty or unusual hardships upon which the appeal was based and which the Board found present. The decision shall also state in detail what, if any, conditions and safeguards are required.

D. Expiration of Approval: Unless otherwise stated in the decision, any order or decision of the Board for a permitted use shall expire as outlined in the Cascade County Zoning Regulations.

E. Filing of Decisions: Decisions of the Board shall be immediately filed in the office of the Cascade County Planning Division and shall be a public record. Copies shall also be sent to all parties to an appeal.

SECTION VII: AMENDMENTS

These rules may be amended by a majority vote of all members of the Board, provided that there be a period of at least thirty (30) days from initial presentation to final action. Once approved, the rules shall become effective immediately.

Amended on this 3rd day of November, 2016.

Brian Ruckman Brian Ruckman, Chairman

William C. Austin Bill Austin, Vice-Chairman

Susan N. Conell Secretary

Susan Conell, Planning Director

11/3/2016



Attested:

NOTARY PUBLIC for the State of Montana
Residing at Great Falls, Montana
My Commission Expires _____